



Town of Rockport
Special Town Meeting

May 16, 2022

Rockport High School Gymnasium

Registered Voters: 6024

Attendance: 377

Commenced: 5:47pm

Dissolved: 10:47pm

TOWN MODERATOR, ROBERT VISNICK, Welcomed everyone and opened the meeting.

The Town recited the Pledge of Allegiance.

The Moderator delivered the invocation.

TOWN CLERK, PATRICIA BROWN, preformed the swearing in of the Melanie J. Waddell the newly elected Town Clerk.

The Moderator moved that Patricia Brown be appointed Deputy Moderator for this meeting and it was seconded by Melanie Waddell in her first act. The motion carried unanimously.

TOWN CLERK, MELANIE WADDELL, Read the officer's return on the warrant.

Town Moderator, Robert Visnick performed the swearing in of Patricia Brown as the appointed Deputy Moderator.

The Moderator explained the rules of procedure of the meeting, and began with Article A.

ARTICLE A

To see if the Town will vote to amend Chapter 14 SINGLE USE PLASTICS PROHIBITION Section F(3) DISPOSABLE FOOD SERVICE WARE of the Code of By-Laws by amending the implementation date to June 1, 2023; or take any other action relative thereto.
(Board of Health) (requires majority vote)

Motion: TOWN ADMINISTRATOR, MITCHELL VIEIRA: Mr. Moderator Board of Health chair Ron Newman moves that article A be approved as printed in the May 16, 2022. Special Town Meeting warrant Board of Selectmen supports this article.

TOWN CLERK: Seconded.

MODERATOR: Okay moved and seconded

Action: The motion was seconded, there was no discussion and the **motion carried with a voice vote.**

ARTICLE B

**To see if the Town will vote to amend the Town's Zoning By-Law as follows:
(Stricken lines are to be deleted. Language to be added is underlined).**

(Please see voters booklet for warrant articles in completeness)

Motion: TOWN ADMINISTRATOR: Mr. Moderator Planning Board chair Jason Shaw moves that Article B be approved as printed in. The May 16, 2022 Special Town Meeting Warrant except that the revisions to the Town of Rockport Zoning Bylaw Article 5 subsection B1 line E on page 22 be deleted and further that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation and corrections to the codification and numbering to ensure correctness. Board of Selectmen, Planning Board and Board of Appeals supports this Article.

TOWN CLERK: Seconded.

MODERATOR: Okay moved and seconded

The moderator said Articles B, C, D and E would be next and explained that they all relate to the Zoning Bylaw and will be voted on one at a time. He then introduced Jason Shaw.

JASON SHAW, Chair of the Planning Board, introduces the Planning Board members and goes on to talk about the different articles and the technical corrections.

ALAN BATTISTELLI: Chair of the Board of Appeals. Made a motion on Article B that the definitions of accessory dwelling units be moved from Article B to Article C.

MODERATOR: The accessory dwelling units are on page 2 presently in the definition and if I understand this Alan you want to move them to Article C here which starts on page 126. is that correct?

ALAN BATTISTELLI: Yes that's the motion we want.

MODERATOR: It is a motion to amend.

TOWN COUNCIL, Amy Kwesell KP law. Town council confirmed with Alan Battistelli that the motion to amend was to delete any revisions to the definition of accessory dwelling and that it was not contingent upon C passing or not. Not deleting the entire definition, just deleting proposed revisions. Alan confirmed.

The motion was moved and seconded.

The moderator explains that the following discussion will be whether or not to change the definition of accessory dwelling units.

DAN WATERS: Eden Road. Asked what Jason Shaw and the Planning Board thought of that change.

Jason Shaw explained the reason for the definition change from “any other dwelling existing on a given lot in excess of one dwelling.” to “a second dwelling unit subordinate in size to the principal dwelling unit.” In that it does not make any sense.

Alan Battistelli disagrees with Shaw and explains that the wording had never been confused before and that the Board of Appeals reviews applications before any work is done.

HERMAN LILJA, Board of Selectmen. Suggested that The Planning Board withdraw the change in the definition to the accessory dwelling unit at the current time.

The moderator announced that The Planning Board agreed to not amend the wording at this time and move on to further discussion of the article.

Heath Ritchie, 1 Woodbury Hill. Asked if all the discussion about the definition also applies to principal permitted uses and structures in section E, he then states his concern that if they leave the definition alone the old wording will be allowed by right.

MODERATOR: It was discovered that Article C accessory dwelling units definition had some potential for mischief so there was a motion made to amend it and The Planning Board agreed to have that motion to amend be pulled back because if Article C changes it will change some things in Article B.

There was much inaudible talking between moderator and town council.

The moderator thought the agreement was The Planning Board would not make a change to accessory dwelling units until Article C was talked about.

There was more continued inaudible talking between moderator and town council.

The Moderator explained that there was a motion to amend, essentially bringing the definition back to the original, but realizing that change is going to happen with Article C. Mr. Battistelli withdrew his motion and at the same time Mr. Shaw agreed not to make any changes to accessory dwelling units and leave that section as it was essentially amending his motion to return that language to the original language and re-visit it at Article C.

Moderator moved on to Article B which will require a two-thirds vote to pass. C, D and E are by majority under the new state law.

TOBY ARSENIAN: 95 Granite Street. Moved to restore all of the notations of when changes were made to the zoning code.

Jason Shaw explained that they removed the dates because according to MAPC generally accepted practice is that there aren't dates aside every single time there's an amendment to a provision in the zoning law.

JIM JOHNSON: 63 Broadway. Asked if someone could give a quick overview of the articles

Jason Shaw explains that there is a letter written by him in the packet that explains what each article is about. Article B is cleaning up the By-Laws, Article C is on accessory dwelling units, Article D is the open space residential subdivisions and Article E is the transit oriented overlay district.

John Kolackovsky, 5 Phillips Ave, talks about how he thinks the MAPC has too much control.

The moderator ends John's discussion and redirects back to the article amendment. Mr. Shaw and Toby spoke. Mr. Shaw restored the dates and Toby agreed to withdraw his motion.

Sharon Olsen: 11 Highland Street. Asked if the section where groundwater and water runoff is crossed out will be replaced.

Conversation between John Penaloza and the moderator continued back and forth. John tried to move to amend line E and was told that to wait until article C is talked about.

Beth Sullivan: 4 Summit Ave. asked if the parking requirement is related to the later considered Article regarding the transit development.

Chris Kuschel, MAPC representative explained that new development under the new overlay district would have parking requirements that are required for the town.

Beth Sullivan asked if there are other substantive issues in Article B that will affect things later.

Jason Shaw said yes, and explained that the articles are not stand alone.

Peter Bergholtz: 2 Pool Pl., Vice chairman of the Zoning Board is in favor of passing article B.

Charles Peterman: 22 Pleasant Street made a motion to move any changes to what is permitted out of the definitional changes that are in the make up of the substance of Article B.

Moderator explained that Town Council deemed that amendment not valid.

TOWN COUNCIL, Amy Kwesell, KP Law, discussed back and forth with Peterman about Article B.

Peterman proposed to subdivide the Article into two separate votes under the same Article that satisfy the procedural.

MODERATOR: All right so apparently there is a motion to amend, to bifurcate the vote to separate out the tables or is it more than the tables? Give us the page number where you want to divide it and we can talk about it.

Charles Peterman: 22 Pleasant Street. Page 21 table of permitted uses the changes to the allowed uses should be, I put a motion forward that the table of allowed uses is separate and distinct from the changes in definitions and should be considered under a subordinate motion.

Discussion is had between the moderator, town council and Charles Peterman.

Charles Peterman, 22 Pleasant Street announces he rescinds his motion.

Emily Hayes: 166 Main Street. Made a motion to vote on Article B as it stands.

Toby Arsenian, 95 Granite Street. Said people are confused about this and it should be discussed more.

A motion to move the question was made, it required a two-thirds vote and it passed 191 to 76, there was no further discussion and Article B was then voted on and the motion failed 163 to 112 needing a 2/3rds vote.

Action: The motion was seconded, there was a lot of discussion and the **motion failed with 163 in favor and 112 in opposed, 59% to 41% a 2/3rds was needed.**

ARTICLE C

To see if the Town will vote to amend the Section V. PERMITTED USES IN ZONING DISTRICTS of the Zoning By-Law as follows:

(Please see voters booklet for warrant articles in completeness)

Motion: TOWN ADMINISTRATOR: Mr. Moderator, Planning Board Chair Jason Shaw moves that Article C be approved as printed in the May 16, 2022 Special Town Meeting Warrant adding that the Town of Rockport Zoning Bylaw, Article V(B)(I) line E be amended to delete the words “provided the minimum lot area required in the Zoning district where the lot is located is provided for each dwelling on the lot.” and to permit as of right one accessory dwelling unit per lot in the RA, R, SMR, G, and D zoning districts and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness. Board of Selectmen and Planning Boards support this Article zoning Board of Appeals does not support this Article.

TOWN CLERK: Seconded.

MODERATOR: moved and seconded

Denise Donnelly, Board of Selectmen, presented information on accessory dwelling units.

Alan Battistelli from The Board of Appeals spoke about being opposed to Article C. Alan made a motion to postpone consideration of Article C and send it back for further study to the Planning Board in conjunction with The Board of Appeals for a period of 180 Days.

Jason Shaw from The Planning Board spoke in favor of Article C.

Tom Mikus, 73 Marmion Way. Spoke in favor of article C and was against Alan's motion.

Charlie Seavey, 18 Frank Street. In favor of postponement.

Laura Hallowell, 37 High Street. Not in favor of Article C.

Zenas Seppala, 92 Granite Street. In favor of postponing the motion.

John Penalzoza, 46 Main Street. In favor of Article C and asked for support in an amendment to change the SRAA and SR districts to the same treatment as the rest of Rockport.

Ashley Shedd, 71 Granite Street. Not in favor of postponing.

Toby Arsenian, 95 Granite Street. In favor of postponing.

Paige Eaton, 6R High Street Court, not in favor of postponing

Dan Waters, 71 Eden Road, not in favor of postponing.

Mark Curley, 8 Old Penzance Road. Not in favor of postponing.

A vote was taken to postpone Consideration of Article C for a period of 180 days and to refer it back to the Planning Board in conjunction with the Zoning Board of Appeals to Study the matter further. It needed a majority vote. The motion failed.

Charmaine Blanchard, 16 ½ King Street. Not in favor of article C

Denise Donnelly made a correction to her speech that there is currently no ADUs allowed in the SRAA and SRA districts and they will not be allowed in future under the current bylaws.

Amy Seabrook, 7 Broadway. Made a comment.

Jonathan Ring, 9 Pools lane. Opposed Article C. Stated that all of the other Zoning bylaws C, D and E should also require a two-thirds vote not a majority vote because they haven't accepted that provision from the state legislature.

Amy Kwesell, Town Council, replied that the change was made to general laws Chapter 48 section 5 which used to require a two-thirds vote for every zoning amendment. The change was made with the Housing Choice Bill, which allows for certain zoning amendments to be made by a majority vote, allowing ADUs as of right, is a majority vote.

Toby Arsenian, 95 Granite Street,“This is all hopeful rather than realistic.”

Jane O'Maley, 63 Pigeon Hill Street. In favor of the article. Asked for clarification to the 6 month rental timeline, how it will affect water and sewer and will there be a financial assistance programs for ADUs.

Denise Donnelly responded with a primary residence is defined by the IRS as 6 months or more. And there is no assistance program.

Lary Salo, 14 Stockholm Ave, commented.

Charlie Seavey, 18 Frank Street. Made a motion to amend the wording “Maximum of 900 square feet or 40 percent of the total growth floor area of the principal dwelling whichever is less” taking out the word “less” and add in the word “greater”.

Denise Donnelly explained that the ADU's are not intended for family living.

Laura Hallowell, 37 High Street. Opposed the amendment because it could allow a very large ADU to be built.

Toby Arsenian asked if you could deny rent to someone based on the amount of people in the family.

Town council said, no, you cannot.

Laurie McKenna, 31 High Street. In favor of the amendment.

John Penaloza, 46 Main Street. asked what residential districts does Article C apply to.

Town clerk as moderator Patricia Brown said it will be on the zoning map when we get to article E.

Town council answered RA, R, SMR, G and D zoning districts.

John Penaloza, 46 Main Street. moved to amend that line, but was told that there is already an amendment on the floor.

Jason Shaw explained that if you change the language then the buildings will be too big and would not be ADUs.

The motion to amend the language in article C failed. 14% in favor to 86% opposed.

Elizabeth Brooks, 44 Long Beach asked how the AUDs will affect the water and sewer system.

Jason Shaw responded that development needs to continue.

Leslie Peterman, 22 Pleasant St, asked how our water supply will be affected.

Jim Gardner, DPW Commissioner responded that the water and sewer in the Town will need to be addressed whether or not we choose more development.

John Penalzoza, 46 Main Street. Moved to amend line E and make SRAA and SR districts a Y in other words by right so that it's equal to all of the other districts in Rockport.

Alan Battistelli opposed that amendment.

Charmaine Blanchard voiced her opinion against the article.

The motion failed 122 in favor, 105 opposed (needed 2/3rds to pass)

Lauren Himml, 60 Main St., "I would like to Propose that, that same line be changed to all special permit."

Town Council: Explained that because Article B failed there is no special permit by the Planning Board because that was part of Article B so by making it a special permit across the board it would be a special permit from the Zoning Board of Appeals. However if this amendment passes and every district requires a special permit the quantum of vote goes back up to two-thirds.

Lauren Himml, commented again.

Jane O'Malley, 63 Pigeon Hill Street. Opposed the amendment.

Helen Barnett, 27 Haven Ave., asked for clarification on the amendment.

Sarah Wilkinson, Board of Selectmen, asked for further clarification.

Monica Lawton, 11 Story St., commented on the complication being created with the amendments.

The motion to amend failed.

Article was voted on and it only needed a majority vote and the motion carried.

Action: The motion was seconded, there was much discussion and the **motion carried with 116 in favor and 114 opposed, Majority.**

ARTICLE D

To see if the Town will vote to amend Section XI. OPEN SPACE RESIDENTIAL DEVELOPMENT of the Town's Zoning By-Law as follows:

(Please see voters booklet for warrant articles in completeness)

Motion: TOWN ADMINISTRATOR: Mr. Moderator, Planning Board Chair Jason Shaw moves that Article D be approved as printed in the May 16, 2022 Special Town Meeting Warrant and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness. Board of Selectmen, Planning Board and Zoning Board of Appeals support this Article.

TOWN CLERK: Seconded.

MODERATOR: Okay moved and seconded

Jason Shaw introduces and explains article D.

Terry Risolio, 4 summit Ave. opposed the article.

Charles Peterman, 22 Pleasant St. asked for more clarification on the article.

Jason Shaw explains more about the article.

Toby Arsenian, 95 Granite St. strongly opposed the article

Jim Johnson, 46 Main St. asked if the next articles need a majority vote to pass.

The moderator answered yes and further explained why.

Jason Shaw explains more about the open space residential development.

Alan MacMillan, 18 Story St. questioned contradictory language.

Jason Shaw explained the language.

Tom Delaney, 70 Eden Rd. asked if this will create gated communities.

Jason Shaw said no and explained more about the article.

Dan O'Donnell, 59 Stockholm Ave. asked if the open space would apply to the ADU's

Moderator answered depending upon what zoning district they're in, yes ADUs could apply.

John Kolakowski, 5 Phillips Ave. opposed article D

The article was voted on and the motion passed.

Action: The motion was seconded, there was much discussion and the **motion carried with 132 in favor and 57 opposed a 70% - 30% Majority.**

ARTICLE E

Motion: TOWN ADMINISTRATOR: Mr. Moderator, Planning Board Chair Jason Shaw moves that Article E be approved as printed in the May 16, 2022 Special Town Meeting Warrant, that the Town of Rockport Zoning Map be amended, and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness. Board of Selectmen, Planning Board and Zoning Board of Appeals support this Article.

TOWN CLERK: Seconded.

MODERATOR: Okay moved and seconded

Jason Shaw introduced and explained the transit oriented village overlay district warrant Article.

Linda Meditz, 98 Main St. opposed.

Jane O'Maley, 63 Pigeon Hill St. asked if the Planning Board could override the dimensions proposed, is it affordable and will Rockport residents have first precedent.

Denise Donnelly it depends on what the developers decide.

Peter Souza, 18 Oakland Ave. asked if the new buildings would adhere to ADA regulations for accessibility to our aging population.

Jason Shaw answered yes it has to comply with the Massachusetts building code and all ADA units.

MacMillan, 18 Story St. opposed.

Nathaniel Mulcahy, 7 Dean Rd. asked what Mr. Smith thought about the article.

Charmaine Blanchard, 16 ½ King St. opposed.

Diane Vella, in favor

Barbara Kaplan, 4 Ocean Ave. in favor

Zenas Seppala, 92 Granite St. opposed.

Charles Peterman, 22 Pleasant St. opposed.

Terry Risolio, 4 summit Ave. opposed.

Toby Arsenian spoke of his concern about what this will do to the water, sewer in Rockport.

Jason Shaw addressed the concern about train noise, unit numbers and water sewer capacity.

Ray Cahill, 15 Haven Ave. made a motion to move the question.

Motion to move the question was heard. It passed with a 2/3rds vote 150-22 87%

The Article was then voted on and the motion carried 89-83 majority vote

Action: The motion was seconded, there was some discussion and the **motion carried with 89 in favor and 83 opposed a 52% - 48% Majority.**

The moderator then called for a vote to dissolve the meeting, which was moved and seconded.
The motion carried with a voice vote, unanimously.

The May 16, 2022 Special Town Meeting dissolved at 10:47pm

Respectfully submitted,

Kourtney A. Buchanan

Assistant Town Clerk